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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,761	11/29/2001	Edward P. Chromka	GP-301187(2760/5)	6025

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EXAMINER

PEACHES, RANDY

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,761

Applicant(s)

CHRUMKA, EDWARD P.

Examiner

Randy Peaches

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/20/06 have been fully considered but they are not persuasive.

Accordingly, the Examiner has considered the Affidavit submitted by the Applicant; however, based on the information presented, the Examiner is unable to determine a concrete date of conception to rely on in order to provide a base for the search of prior art. The Examiner respectfully brings to the Applicant's attention, MPEP section 1.131 wherein it clearly states:

- (b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained.

No where has it been fully explained by the Applicant, the actual date of conception in order for the Examiner to rely upon for further action toward prosecution.

The evidence submitted is insufficient because, the conception occurs prior to the date of the Bhatia et al. reference, but the constructive reduction to practice is afterward. It is not merely enough to allege that the applicant has been diligent. Applicant must show evidence of facts by either affirmative acts or acceptable excuses in order to establish diligence. The statement wherein "the application was prepared with due diligence" is insufficient. The critical period in which the diligence must be

shown begins just prior to the effective date of the Bhatia et al. reference, 09/22/00, and ends with the date of the constructive reduction to practice, 11/29/01.

Applicant is reminded that the 37 CFR 1.131 affidavit must contain an allegation that the acts relied upon to establish the date prior to the reference or activity were carried out in this country or in a NAFTA country or WTO member country.
MPEP715.07(c).

Therefore, based on the above office action and the comment within, claims 1-30 stand rejected using the Bhatia reference as repeated below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. ***Claims 1-6, 8-16, 18-25 and 27-30*** are rejected under 35 U.S.C. 102(e) as being anticipated by Bhatia et al (U.S. Publication Number 2002/0090932 A1).

Regarding ***claims 1, 12, 20***, Bhatia et al discloses a method, system and computer medium for directing service to a mobile subscriber, which reads on claimed "vehicle", equipped with a hardware and software medium, as disclosed in paragraph [0041].

(Also, reference the present specification on page 6 lines 21-23, where the applicant states that the vehicle client (10) can be a mobile device), capable:

- receiving and updating a said mobile subscriber location; See paragraph [0044, 0090]
- determining a real-time subscriber delivery-enabling information, which reads on claimed "vehicle delivery-enabling information", based on the service request and the said subscriber location; See paragraph [0046].
- Customizing, which reads on claimed "configuring", the service corresponding to the service request based on the said real time subscriber delivery enabling information, wherein the service is customized by the B2B Engine (210); See paragraph [0047, 0055, 0056].
- providing the said customized information to the said mobile subscriber. See paragraph [0047].

Regarding **claims 2, 13 and 21**, according to **claims 1, 12, 20**, Bhatia et al discloses in paragraph [0090], a Subscriber Identification Module (SIM) toolkit (454), which reads on claimed "vehicle communication component", capable of transmitting real-time information associated with a particular said mobile subscriber.

Regarding **claims 3 and 22**, according to **claims 2 and 21**, Bhatia et al discloses in paragraph [0090], of an ISDN number (MSISDN), which reads on claimed "vehicle identifier", used to identify user information and said mobile subscriber location.

Regarding **claims 4, 14 and 23**, according to **claims 1, 12, 20**, Bhatia et al discloses in paragraph [0044], of communicating a list of portals, e.g. weather, restaurants, etc., which reads on claimed "channels", to a said mobile subscriber's SIM.

Regarding **claims 5, 15 and 24**, according to **claims 4, 14, 23**, Bhatia et al discloses selecting a said portal from a list of delivery portals to deliver the customized service corresponding to the service request. See paragraph [0046].

Regarding **claims 6, 16 and 25**, according to **claims 5, 15, 24**, Bhatia et al discloses in paragraph [0046] of how the B2B engine upon receipt of the said real time information forwards this information to the said portal, thereby permitting the customization, which reads on claimed "optimization", according to the said mobile subscriber's preferences.

Regarding **claims 8, 18 and 27**, according to **claims 1, 12, 20**, Bhatia et al discloses creating a profile that includes real-time subscriber delivery-enabling information. See paragraph [0047].

Regarding **claims 9 and 28**, according to **claims 1 and 20**, Bhatia et al discloses wherein determining said real time subscriber delivery enabling information is based on personal preference, which reads on claimed "pre-determined", of the user input. See paragraphs [0045, 0058].

Regarding **claims 10 and 29**, according to **claims 1 and 20**, Bhatia et al discloses in paragraph [0045], of when a mobile subscriber turns "on" his/her device, the automatic pre-defined services are generated and sent to the said mobile subscriber based on the request sent out by the said mobile subscriber, when the said device was place in the "on" position. Only then, is when the said subscriber is able to receive information. Otherwise, the requesting information is being stored at the said portals until requested. Therefore, by definition, as cited in the Newton's Telecom Dictionary 2002 edition, electronic mail is any information that has been "stored" and "forwarded" by a service from a computer terminal or computer system.

Regarding **claims 11, 19 and 30**, according to **claims 1, 12, 20**, Bhatia et al discloses updating the said real-time subscriber delivery-enabling information at a Business-to-Business (B2B, 458) while the application is in contact with a said SIM. See paragraph [0090].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. **Claims 7, 17 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhatia et al (U.S. Publication Number 2002/0090932 A1) in view of Doi et al (U.S. Publication Number 2001/0014911).

Regarding **claims 7, 17 and 26**, according to **claim 1, 12 and 20**, Bhatia et al discloses a method, system and computer medium for directing service to a mobile subscriber, which reads on claimed "vehicle", equipped with a hardware and software medium, as disclosed in paragraph [0041], capable:

- receiving and updating a said mobile subscriber location; See paragraph [0044, 0090]
- determining a real-time subscriber delivery-enabling information, which reads on claimed "vehicle delivery-enabling information", based on the service request and the said subscriber location; See paragraph [0046].
- Customizing, which reads on claimed "configuring", the service corresponding to the service request based on the said real time subscriber delivery enabling information, wherein the service is customized by the B2B Engine (210);; See paragraph [0047, 0055, 0056].
- providing the said customized information to the said mobile subscriber. See paragraph [0047].

However, Bhatia et al does not disclose configuring a vehicle communication component in the vehicle based on the vehicle delivery-enabling information.

Doi et al teaches in paragraph [0013], of a mobile terminal comprising a dynamic user profile memory configured to store a dynamic user profile representing information dynamically changed by time.

Therefore at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Bhatia et al (U.S. Publication Number 2002/0090932 A1) to include Doi et al (U.S. Publication Number 2001/0014911) in order obtain a system, method and medium, that has the flexibility to allow different users to use the same said vehicle and afford the user the ability to change his/her preferences in the said system in order to receive the necessary information from the network.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Randy Peaches
April 11, 2006


CHARLES APPIAH
PRIMARY EXAMINER